

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

STEPHEN J. ODELL,

Plaintiff,

v.

FEDERAL BUREAU OF  
INVESTIGATION, et al.,

Defendants.

CASE NO. C10-165RAJ (lead case)

CASE NO. C10-179RAJ (member case)

ORDER

This matter comes before the court on a motion to dismiss (Dkt. # 7) from the Federal Bureau of Investigation (“FBI”) and a motion for summary judgment (Dkt. # 11) from Seattle Pacific University (“SPU”). No party has requested oral argument, and the court finds oral argument unnecessary. For the reasons stated herein, the court GRANTS both motions and directs the clerk to DISMISS this action with prejudice and enter judgment for Defendants.

Plaintiff Stephen Odell filed this lawsuit in King County Superior Court in 2008. It appears that he initially failed to serve any Defendant. When Defendants finally received notice of this action, the FBI removed the case to this court, invoking its status as an agency of the United States.

Mr. Odell’s complaint contends that the FBI and the SPU acted improperly in events that led to Mr. Odell’s arrest and detention in 1988. Mr. Odell’s complaint is exceedingly difficult to decipher. It appears that he and his brother may have been

1 suspected of threatening SPU students with handguns, or perhaps he merely interfered  
2 with an investigation into the whereabouts of a missing foreign student. Mr. Odell  
3 contends that as a result of his arrest and related conduct of the Defendants, he was  
4 denied a nursing degree, and his mother suffered serious mental distress in the wake of  
5 either a search of her home or an attempt to execute an arrest warrant at her home.

6 Although the court cannot decipher precisely what Mr. Odell believes happened to  
7 him and his mother, there is no doubt about when Mr. Odell claims that the events  
8 happened: twenty-two years ago.

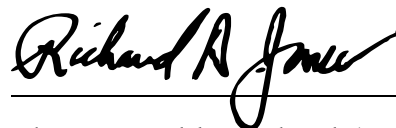
9 SPU points out in its motion for summary judgment that whatever claims Mr.  
10 Odell brings now must be barred by whatever statutes of limitation apply. Mr. Odell  
11 claims libel, slander, false arrest, some variety of interference with music sales, infliction  
12 of emotional distress, and appears to seek damages for his mother's injuries as well. The  
13 statute of limitations on each of those causes of action expired many years ago. Indeed,  
14 the court is unaware of any civil action based on the events in 1988 that would not be  
15 time-barred. Mr. Odell articulates no conduct that occurred more recently than 1990, and  
16 he articulates no basis for tolling or otherwise excusing his failure to comply with the  
17 statutes of limitation. Accordingly, the court grants SPU's summary judgment motion.

18 The FBI might well have pointed to statutes of limitations as a basis for dismissing  
19 Mr. Odell's suit, but it settled on a more fundamental issue: lack of subject matter  
20 jurisdiction. To the extent Mr. Odell asserts tort claims against the FBI, he is suing the  
21 government of the United States, and thus his claim is "forever barred unless it is  
22 presented in writing to the appropriate Federal agency within two years after such claim  
23 accrues or unless action is begun within six months after the date of mailing, by certified  
24 or registered mail, of notice of final denial of the claim by the agency to which it was  
25 presented." 28 U.S.C. § 2401(b). The United States' waiver of sovereign immunity is  
26 conditioned on filing the pre-suit claim; without it, the court lacks subject matter  
27 jurisdiction. *Burns v. United States*, 764 F.2d 722, 724 (9th Cir. 1985). The FBI has

1 presented uncontradicted evidence that Mr. Odell never filed a pre-suit claim, and the  
2 time has long passed for him to do so. Thus, the court lacks subject matter jurisdiction  
3 over Mr. Odell's tort claims against the FBI. To the extent that Mr. Odell has any non-  
4 tort claims against the FBI (a *Bivens* action, for example), they are time-barred. *See* 28  
5 U.S.C. § 2401(a) (imposing catchall six-year statute of limitations for claims against the  
6 United States).

7 For the reasons stated above, the court GRANTS both Defendants' motions (Dkt.  
8 ## 7, 11), DISMISSES this action with prejudice, and directs the clerk to enter judgment  
9 for Defendants.

10 DATED this 15th day of July, 2010.

11  
12 

13 The Honorable Richard A. Jones  
14 United States District Judge  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27